

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

D-20 JOSEPH WHITING,

Defendant.

Case No. 06-20465

Honorable Nancy G. Edmunds

**ORDER DENYING WITHOUT PREJUDICE DEFENDANT WHITING'S MOTION TO
COMPEL UNDISCLOSED DISCOVERY [2540] AND MOTION FOR TRANSCRIPTS
OF CO-DEFENDANTS McDONALD AND VIRAMONTEZ [2541]**

This criminal matter comes before the Court on Defendant Joseph Whiting's motions to compel undisclosed discovery [2540] and for transcripts of Co-Defendant's McDonald's and Viramontez's grand jury testimony, arrest/detention, arraignment, plea agreements, sentencing, and other discovery materials [2541]. After a lengthy jury trial, Defendant Whiting was convicted of various criminal charges. He then filed an unsuccessful appeal. On November 18, 2013, the United States Supreme Court denied his petition for a writ of certiorari [2517]. See *United States v. Nagi*, 2013 WL 5433464 (6th Cir. Sept. 30, 2013), *cert. denied*, 2013 WL 5744054 (Nov. 18, 2013).

Defendant has not yet filed a motion to vacate, correct, or set aside his sentence pursuant to 28 U.S.C. § 2255 and claims he needs the requested discovery to file this motion. Defendant was represented by counsel during his trial and appeal. That counsel obtained discovery from the government. Defendant has not informed the Court whether

his trial or appellate counsel previously provided him with the requested discovery, whether he previously requested the discovery materials made available to his former counsel, and has not otherwise persuaded the Court that he cannot file a § 2255 motion at this time.

Accordingly, Defendant's motion is DENIED WITHOUT PREJUDICE.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: March 5, 2014

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 5, 2014, by electronic and/or ordinary mail.

s/Johnetta M. Curry-Williams
Case Manager
Acting in the Absence of Carol A. Hemeyer